

1 OCT 2009



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents  
United States Patent and Trademark Office  
P.O. Box 1450  
Alexandria, VA 22313-1450  
www.uspto.gov

Lek (Slovenia) - LUEDEKA, NEELY & GRAHAM, P.C.  
P.O. BOX 1871  
Knoxville TN 37901

In re Application of	:	
BOGATAJ et al.	:	DECISION ON
Application No.: 10/599,289	:	
PCT No.: PCT/EP2005/003175	:	PAPERS
Int. Filing Date: 24 March 2005	:	
Priority Date: 26 March 2004	:	UNDER 37 CFR 1.42
Attorney's Docket No.: 33705-US-PCT	:	
For: GASTRORESISTANT ... ACID (LK-423)	:	

This is a decision on the submission filed by applicants on 20 July 2009 and 21 August 2009. The indication that inventor Anton Lavric is deceased has been treated as a request for status under 37 CFR 1.42.

**BACKGROUND**

On 24 March 2005, applicants filed international application PCT/EP2005/003175 which claimed a priority date of 26 March 2004 and designated the United States. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 06 October 2005. The thirty-month period for paying the basic national fee in the United States expired at midnight on 26 September 2006.

On 25 September 2006, applicants filed a transmittal letter for entry into the national stage in the United States accompanied by, *inter alia*, the basic national fee.

On 23 February 2009, the United States Designated/Elected Office (DO/EO/US) mailed a NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 July 2009, the DO/EO/US mailed a second NOTIFICATION OF MISSING REQUIREMENTS (Form PCT/DO/EO/905) indicating, *inter alia*, that a declaration of inventors in compliance with 37 CFR 1.497(a)-(b) was required.

On 14 July 2009, the DO/EO/US also mailed a "Letter Regarding a New Notice and/or the Status of the Application" (Form PCT/DO/EO/WITH) indicating that the Notice mailed 23 February 2009 should be disregarded.

On 20 July 2009, applicants filed a submission including a petition/fee for a three-month extension of time and several declarations of inventors. The indication that inventor Anton Lavric is deceased has been treated as a request for status under 37 CFR 1.42.

On 21 August 2009, applicants filed a submission including a request for refund of the three-month extension of time fee paid 20 July 2009.

### DISCUSSION

The declaration signed by the legal representative of Anton Lavric is not in compliance with 37 CFR 1.497(a)-(b) because it fails to identify each inventor and the country of citizenship of each inventor. 37 CFR 1.497(a)(3).

The declarations filed 20 July 2009 are also not in compliance with 37 CFR 1.497(a)-(b) because there is a difference in names in one of the inventors between the published international application (Janez KERK) and the declaration of the inventors (Janez KERC). It is not clear if there was a typographical in the last name of the inventor as indicated in the international application (an acceptable explanation would be required), or if the inventor has changed his name (a petition under 37 CFR 1.182 (see MPEP § 605.04(c))) would be required), or if a change of inventorship is being made from the inventorship of the application as indicated in the international application (a petition under 37 CFR 1.497(d) would be required).

#### Request for Refund

The three-month extension of time fee paid on 20 July 2009 has been refunded to Deposit Account 12-2355.

### CONCLUSION

For the above reasons, the request for status under 37 CFR 1.42 is **REFUSED**.

Any further correspondence with respect to this matter may be filed electronically via EFS-Web or if mailed should be addressed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration.

Applicant is required to submit a proper declaration within a time period of **TWO (2)**

**MONTHS** from the mail date of this Decision. THIS PERIOD FOR RESPONSE MAY BE EXTENDED UNDER 37 CFR 1.136(a). FAILURE TO PROPERLY RESPOND WILL RESULT IN ABANDONMENT. Any request for reconsideration of this decision should include a cover letter entitled "Renewed Submission Under 37 CFR 1.42."

Regarding the name of Janez KERK or Janez KERC, a proper response would be a new oath(s) or declaration(s) properly identifying the inventor and signed by the inventor, or an acceptable explanation of any typographical or transliteration error in the last name of the inventor as indicated in the international application if this is the case, or a petition under 37 CFR 1.182 (see MPEP § 605.04(c)) if the inventor has changed his name, or a petition under 37 CFR 1.497(d) if a change of inventorship is being made from the inventorship of the application as indicated in the international application.

/Daniel Stemmer/

Daniel Stemmer  
Legal Examiner  
PCT Legal Affairs  
Office of Patent Cooperation Treaty  
Legal Administration  
Telephone: (571) 272-3301  
Facsimile: (571) 273-0459